

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

IN RE:

TRIUMPH DOMS, LLC

Debtor.

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§

Case No. 22-80084

(Chapter 7)

**APPLICATION TO EMPLOY THE PROBUS LAW FIRM
AS SPECIAL LITIGATION COUNSEL PURSUANT TO 11 U.S.C. § 328(a)**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

A HEARING HAS BEEN SET FOR JANUARY 20, 2022 AT 9:30 A.M. ALL HEARINGS BEFORE JUDGE NORMAN WILL BE HELD ON A HYBRID BASIS. PARTIES MAY APPEAR EITHER REMOTELY OR IN PERSON UNLESS THE COURT ORDERS OTHERWISE. See Judge Norman's website for information regarding remote appearances: <https://www.txs.uscourts.gov/page/united-states-bankruptcy-judge-jeffrey-p-norman>

Randy W. Williams, chapter 7 trustee (the "Trustee") for the estate of Triumph Doms, LLC (the "Debtor"), files this Application to Employ The Probus Law Firm ("PLF") as special litigation counsel pursuant to 11 U.S.C. § 328(a).

Application to Employ

1. The Trustee desires to employ PLF as special litigation counsel on a contingency fee basis to assist him in identifying and analyzing all claims and causes of action owned by the estate under 11 U.S.C. § 544, 547, 548 and 549 and applicable state law (the “Claims”). Pursuant to this Application, the Trustee seeks to engage PLF to analyze and pursue any Claims on behalf of the Debtor’s estate (the “Work”).

2. PLF maintains offices at 10497 Town & Country Way, Suite 930, Houston, Texas 77024. PLF’s main telephone number is (713) 258-2700.

3. The Trustee has selected PLF because its members have extensive experience in matters relating to commercial and bankruptcy litigation, fraudulent transfers, avoidance actions, and asset collection. The Trustee believes that PLF can provide the estate with the required legal expertise to allow the Trustee to handle this litigation effectively and prudently.

4. Matthew Probus of PLF will be designated as attorney-in-charge and will be responsible for the representation of the Trustee by PLF as set forth in this Application.

5. Mr. Probus is admitted to practice before all courts in the Southern District of Texas and has significant trial experience in handling commercial and real estate litigation matters involving real property. He has at least thirty (30) trials in state and federal court. Some recent examples of representations involving issues of commercial real estate handled by PLF include:

- *Jeffrey A. Katz v. Herbert David Carlin, et al*, before the American Arbitration Association, Arbitration Claim No. 01-22-0001-3580.
- *National Brands, LLC, et al v. El Tiempo Franchise Group, LLC and Roland Laurenzo, et al*, Cause No, 2021-35339; In the 190th Judicial District Court of Harris County, Texas.
- *Seguro Assets, LLC v. Walter Bobo Fitch, et al*, Cause No. DC-19-18095; In the B-44th Judicial District Court of Dallas County, Texas; Claims against multiple parties arising from complex real estate transaction and loan.
- *Donald W Guggenheim and Webster Finance, LLC vs. Time Restaurant Holdings-CL, LLC et al*. Adv. Pro. No. 19-3692, In the United States Bankruptcy Court for the Southern District of Texas, Houston Division

(removed to the Bankruptcy Court from Cause No. 2018-64250, in the 270th Judicial District Court of Harris County, Texas).

- *Jade Construction Group, Inc. vs. Webster Restaurants, Ltd et al.*, Adv. Pro. No. 19-3699, In the United States Bankruptcy Court for the Southern District of Texas, Houston Division (removed to the Bankruptcy Case from Cause No. 2019-40566; in the 164th Judicial District Court of Harris County, Texas).
- *In re Lot, Inc.*; Case No. 17-32456; In the United States Bankruptcy Court for the Southern District of Texas, Houston Division.
- *In re NOLA Investments, LLC* (Chapter 7) Case No. 15-33668-H5-7; In the United States Bankruptcy Court for the Southern District of Texas, Houston Division (Counsel to Ronald J. Sommers, Chapter 7 Trustee),
- *Charles Trinh and Kim-Huong T. Huynh v. Village Real Estate, LLC*, Cause No. 2013-73758; In the 269th Judicial District Court of Harris County, Texas.

6. Mr. Probus has handled numerous cases under Chapter 5 of the Bankruptcy Code representing Chapter 7 trustees and debtors as plaintiffs and individuals and companies as defendants. In addition, Mr. Probus has represented numerous debtors and creditors in bankruptcy cases, other Chapter 7 trustees in numerous exemption objections, turnover requests and claims objections.

7. The Trustee has selected Mr. Probus and PLF because of their experience and specialization in commercial and bankruptcy-related litigation. The Trustee believes that PLF is well qualified to represent the Trustee.

8. PLF will render professional services including, but not limited to:

- (a) Assisting the Trustee in analyzing claims owned by the estate;
- (b) Preparing and filing such pleadings as are necessary to pursue the estate's claims and defending the Trustee in the any potential litigation;
- (c) Conducting appropriate examinations of witnesses, claimants, and other parties in interest in connection with such litigation;
- (d) Representing the Trustee in any potential litigation and any adversary proceedings and other proceedings before the Court and in any other judicial or administrative proceeding in which the claims described herein may be affected;

- (e) Collecting any judgment that may be entered in favor of the Trustee in the claims;
- (f) Handling any appeals that may result from the potential litigation; and
- (g) Performing any other legal services that may be appropriate in connection with the prosecution of the claims.

Statement Regarding Connections to the Case

9. PLF has not represented the Debtor prior to or during this bankruptcy case. PLF represents the Trustee in various cases including (i) *In re Omar Edmundo Pimentel-Dominguez*, Case No. 21-32676, (ii) *In re David Glen Hickerson and Nadia Felisa Hickerson*, Case No. 20-35961, and (iii) *In re Lewis Andre Reynolds*, Case No. 22-32118.

10. Except as set forth above and in the attached affidavit, PLF has no other connection with the debtor, its creditors, any other parties in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee and is a “disinterested person” within the definition of § 101(14) of the Bankruptcy Code on the matters for which it is to be engaged as special counsel. *See* Declaration attached.

Compensation

11. Due to the uncertain nature of the claims and the potential associated expenses, the Trustee has negotiated a contingency fee of 40%. A copy of the proposed agreement is attached as **Exhibit 1**.

12. In reaching his decision, the Trustee has evaluated the estate’s available resources, the complexity of the litigation, the anticipated costs and the associated risks of the litigation. Given that the estate may not have sufficient resources to employ counsel on an hourly fee basis, the Trustee determined that a contingency fee arrangement was appropriate.

13. Under the circumstances, the Trustee believes that the terms of the proposed agreement are reasonable, prudent and in the best interest of the estate.

14. PLF has not received any funds from the debtor, the Trustee or any other party in this case.

15. In the attached declaration, PLF has identified the amount and source of compensation to be paid to PLF for services rendered in connection with its representation of the Trustee in this case.

16. Accordingly, the Trustee requests that the Court approve the retention of PLF as special litigation counsel under 11 U.S.C. § 328(a) as set forth above and for such other relief as is just.

DATED: November 29, 2022.

THE PROBUS LAW FIRM

By: /s/ Matthew B. Probus

MATTHEW B. PROBUS

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*SPECIAL LITIGATION COUNSEL FOR RANDY
WILLIAMS, CHAPTER 7 TRUSTEE*

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to Bankr. R. 2014, this instrument was served by United States first class mail, with proper postage affixed, addressed to the parties set forth on the attached Service List on this 29th day of November 2022 and all parties received notification through the Court's CM/ECF system.

/s/ Matthew Probus

Matthew Probus

Label Matrix for local noticing
0541-3
Case 22-80084
Southern District of Texas
Galveston
Tue Nov 29 17:13:56 CST 2022

Galveston County
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League City, TX 77573-2943

3
United States Bankruptcy Court
601 Rosenberg St
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Galveston, TX 77550-1738

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Salt Lake City, UT 84165-0250

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(u)CLEAR CREEK INDEPENDENT SCHOOL DISTRICT

(u)Vinumber, LLC

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Mailable recipients	11
Bypassed recipients	2
Total	13